APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,910	08/12/2004	Christian D. Hofstader	106734.00066	3967

34802   7590   05/26/2010
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ART UNIT	PAPER NUMBER
2174	

NOTIFICATION DATE	DELIVERY MODE
05/26/2010	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte CHRISTIAN D. HOFSTADER, GLEN GORDON,
ERIC DAMERY, RALPH OCAMPO, DAVID BAKER, and
JOSEPH K. STEPHEN

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Appeal 2009-005381
Application 10/710,910
Technology Center 2100

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Decided: May 24, 2010

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Before JOSEPH L. DIXON, JEAN R. HOMERE, and
ST. JOHN COURTENAY III, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final decision rejecting claims 1-24. We have jurisdiction over the appeal under 35 U.S.C. § 6(b). We REVERSE.

Claim 1 is illustrative:

1.   A screen reader software product comprising:

a screen reader module communicatively coupled with resident software on a computer, the reader module adapted to collect textual and non-textual display information generated by the resident software;

a broadcast module communicatively coupled to the reader module, the broadcast module adapted to communicate the display information collected by the reader module to an output device; and

a schema module communicatively coupled to the broadcast module, the schema module adapted to send non-textual display information with associated textual display information to the output device in substantially concurrent fashion.

Appellants appeal the following rejections:

1. Claims 1-9 and 17-23 under 35 U.S.C. § 103(a) as unpatentable over Raman (US 5,572,625, Nov. 5, 2006) and MacKenty (US 6,085,161, Jul. 4, 2000).

2. Claims 10-13, 15, and 24 under 35 U.S.C. § 103(a) as unpatentable over Raman, MacKenty, and Giuliani (US Patent Pub. 2002/0105496, Aug. 8, 2002).

3. Claim 14 under 35 U.S.C. § 103(a) as unpatentable over Raman, MacKenty, and Burchart (US 4,836,784, June 6, 1989).

4. Claim 16 under 35 U.S.C. § 103(a) as unpatentable over Raman, MacKenty, and Rohen (US 5,186,629, Feb. 16, 1993).

ISSUE

Under §103, does the prior art relied on by the Examiner teach or suggest a "<u>screen</u> reader module" as claimed? (*See* independent claims 1, 17, 18, and 19).

FACTUAL FINDINGS

1. A screen reader is known in the art as a system that outputs the content *of a computer screen* to a user by auditory or tactile means. (MacKenty Col. 1, ll. 48-49).

2. Raman is directed to the audio rendering of digitized works, and in particular, digitized documents containing mathematical expressions. (Abst. 11. 1-4). Raman doesn't expressly indicate that the audio rendering of mathematical expressions is done from a screen (see Fig. 1), although Fig. 2 shows Monitor 84 and audio rendering software 108 contained within workstation 80. See also Raman: Col. 4, ll. 31-34: "A set of audio rendering rules 16 are provided which operate upon the structured internal representation 14 by means of a audio formatter 22 to producing audio output 18." The Examiner finds that Raman does not explicitly teach the reader module to be a <u>screen</u> reader module. (Ans. 4).

3.   Raman discloses that a digitized source document is marked up. The recognizer transforms a source document into a structured internal representation structured essentially as a hierarchical tree. (Col. 4, ll. 23 and 27-39). Audio formatter 22 acts upon structured document 14 in cooperation with the rendering rules. (Col. 8, ll. 48-49).

4.   MacKenty discloses that the invention described in MacKenty *"differs from the existing systems, called "screen readers"* that use synthesized speech output to represent information on a computer screen." (Col. 1, ll. 47-52)(emphasis added).

5.   MacKenty discloses that after an HTML document is obtained and parsed, the reader 14 accesses the tree structure in order to sonify the page of HTML data that the tree data structure represents. (Col. 4, ll. 59-62).

6.   MacKenty discloses that "[t] present invention avoids the visual metaphor of a screen and represents documents the way they would sound when read aloud, not the way they appear visually." (Col. 1, ll. 52-55).

ANALYSIS

Appellants argue that Raman and MacKenty do not teach or suggest a "screen reader module" as claimed. (App. Br. 10). We agree.

We find that the combination of references teach or suggest that an *entire document* is either marked up (FF 3), or parsed (FF 5), before being transformed into auditory form. (FF 2, 3, and 5). We do not find, nor has the Examiner established, that the cited references teach or suggest that the *content displayed on a screen* is outputted into auditory form, which is the ordinary and customary meaning of the term "screen reader." (FF 1). To

adopt the Examiner's construction would require us to ignore the "screen" portion of the disputed claim term "screen reader module." (Claim 1). We conclude that such interpretation would not be in accord with the broadest reasonable interpretation.

We further agree with Appellants that MacKenty "teaches away" from screen readers. (App. Br. 11-12)

"A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant." *In re Kahn*, 441 F.3d 977, 990 (Fed. Cir. 2006) (citations and internal quotation marks omitted). *Cf. In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004) (noting that merely disclosing more than one alternative does not teach away from any of these alternatives if the disclosure does not criticize, discredit, or otherwise discourage the alternatives).

In the present case, we find that MacKenty expressly discourages use of a screen reader. (FF 4). See particularly FF 6: "The present invention *avoids the visual metaphor of a screen* and represents documents the way they would sound when read aloud, *not the way they appear visually*." (emphasis added). Thus, MacKenty's approach of presenting an *entire* HTML document as a "linear stream of audio information" differs significantly from sonifying information on a computer screen. Therefore, we agree with Appellants that MacKenty "teaches away" from the *screen reader module* recited in each independent claim before us on appeal.

Based on the record before us, we find the Examiner erred in rejecting independent claims 1 and 17-19. Accordingly, we reverse the rejection of claims 1 and 17-19 as well as associated dependent claims 2-16, and 20-24.[1]

DECISION

We reverse the Examiner's § 103 rejections.

ORDER

REVERSED

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[1] Regarding dependent claims 10-16 and 24, we do not find, nor has the Examiner established that Giuliani, Burchart or Rohen cures the deficiencies of Raman and MacKenty discussed above.